

HOUSING DEVELOPMENT INCENTIVE PROGRAM

M.G.L. CHAPTER 40V
760 CMR 66.00

July 2012



Regulatory Requirements

HOUSING DEVELOPMENT INCENTIVE PROGRAM

- Chapter 40V created in Chapter 240 of the Acts of 2010
 - ▣ Included in Economic Development Reorganization Bill
 - ▣ **HOUSING IS AN ECONOMIC DEVELOPMENT ISSUE**
- Implementation regulations, 760 CMR 66.00 published in June 2012

GOALS



Support planning and housing development that will:

- ❑ Increase residential growth
- ❑ Expand diversity of housing stock
- ❑ Support economic development
- ❑ Promote neighborhood stability

OVERVIEW

Provides two tax incentives to developers to undertake substantial rehabilitation of properties in Gateway Cities for sale or lease as multi-unit market rate housing:

- ❑ A local option property tax exemption on all or part of the increased value resulting from improvements related to market rate units
- ❑ A state tax credit for substantial rehabilitation costs of market rate units

GATEWAY CITIES



GATEWAY CITIES

M.G.L. Chapter 23A section 3A:

- ❑ A population greater than 35,000 and less than 250,000
- ❑ Median household income below state average
- ❑ Rate of educational attainment of bachelor's degree or above that is below state average

GATEWAY CITIES

Barnstable

Holyoke

Pittsfield

Brockton

Lawrence

Quincy

Chelsea

Leominster

Revere

Chicopee

Lowell

Salem

Everett

Lynn

Springfield

Fall River

Malden

Taunton

Fitchburg

Methuen

Westfield

Haverhill

New Bedford

Worcester

GATEWAY CITIES



Housing Development Incentive Program 

Why Focus on Gateway Cities?

Look beyond problems to opportunities:

- ❑ Smart locations with walkable downtowns, existing infrastructure and mass transit
- ❑ Amenities like rivers and waterfronts
- ❑ Cultural assets
- ❑ Mill buildings and historical structures
- ❑ Affordability of housing stock
- ❑ Universities and community colleges
- ❑ Immigrant populations

OVERVIEW

PROGRAM IMPLEMENTATION

Municipality

- ❑ Local community planning and civic engagement
- ❑ Local approval of HD Zone designation
- ❑ Local approval of HD Zone Plan
- ❑ Negotiation of HD Tax Increment Exemption Agreement with Sponsor for proposed HD Project
- ❑ DHCD approval of HD Zone & HD Zone Plan
- ❑ Execution of HD Tax Increment Exemption Agreement with Sponsor

OVERVIEW

PROGRAM IMPLEMENTATION

Sponsor

- DHCD approval of Preliminary Certification – Site & Building
- DHCD approval of Conditional Certification – Rehabilitation Plans
 - ▣ Conditional approval of HD Tax Increment Exemption Agreement
 - ▣ Conditional award of HD Tax Credits
- Construction of HD Project begins
- Construction completed with 80% occupancy of market rate units
- DHCD approval of Final Certification of HD Project and QSREs
- DHCD approval of HD Tax Increment Exemption Agreement
- DHCD award of HD Tax Credits
- DHCD notification to DOR of Final Certification
- Takes HD Tax Increment Exemption and HD Tax Credits

DEFINITIONS

- HD Zone
- HD Zone Plan
- HD Project
- Substantial Rehabilitation
- HDIP Pricing Area
- HD Tax Increment Exemption
- Qualified Substantial Rehabilitation Expenses
- Certified HD Project
- Pricing of Market Rate Units
- HD Tax Credits

HD ZONE

- ❑ Geographic area where tax incentives are available to support market rate housing production
- ❑ No restrictions on location
- ❑ Need for multi-unit market rate housing
- ❑ Minimum size requirement
 - ▣ 2 or more contiguous parcels
 - ▣ Larger than number of parcels comprising HD Project
- ❑ May be located in one or more adjacent Gateway Cities
- ❑ May include one or more HD Projects

HD ZONE PLAN

- Detailed description of proposed development and redevelopment activities, both public & private for HD Zone
- Impact of implementation of proposed plan on HDIP goals

HD PROJECT

- Substantial rehabilitation of an existing property resulting in:
 - ▣ Two or more units for sale or lease as market rate housing
 - ▣ Maximum of 62 total housing units
 - ▣ Maximum of 50 market rate units
 - ▣ Minimum of 80% of total units as market rate
 - ▣ One or more buildings on one or more contiguous parcels of land permitted and financed as single undertaking
- May be mixed-use, including commercial

SUBSTANTIAL REHABILITATION

- Major redevelopment, repair and renovation of existing property
- Limited new construction:
 - ▣ Addition of upper stories
 - ▣ Expansion of footprint by building out
 - ▣ Redevelopment of site after demolition of existing building(s) - if it occurs after preliminary certification
- Prohibits new construction on existing vacant land
- Construction costs per unit of no less than \$30,000

MARKET RATE UNITS

- **Units priced for households >110% of HDIP AMI**
 - ▣ Calculated for locally identified HDIP Pricing Area
- No ceiling on rents or sales
- No income restrictions for unit occupants
- Must be affirmatively marketed

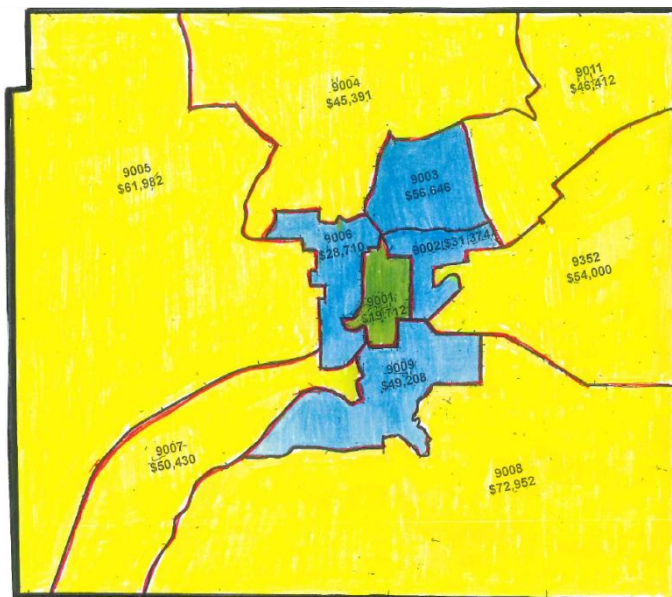
HDIP PRICING AREA

- Geographic area used by City to establish HDIP AMI
 - ▣ Identified locally
 - ▣ Proposed HD Zone or other relevant area contiguous to and inclusive of HD Zone - e.g., citywide, census tract, combination of census tracts
 - ▣ No size or location requirements
 - ▣ May include contiguous areas in one or more municipalities
- $\text{HDIP AMI} \times 110\% = \text{Target Median Household Income for pricing the market rate units}$
 - ▣ Must be $> 60\%$ of HUD AMI
 - ▣ Must be set at a level to meet HDIP goals

HDIP PRICING AREA

- Specific to each City's unique market conditions
- Sponsors set rents/purchase prices for Target Median Household Income
- Provides flexibility
 - City with strong market demand can plan for households with higher incomes

Example of HD Pricing Area



City border
Census Tracts
HD Zone
HDIP Pricing Area

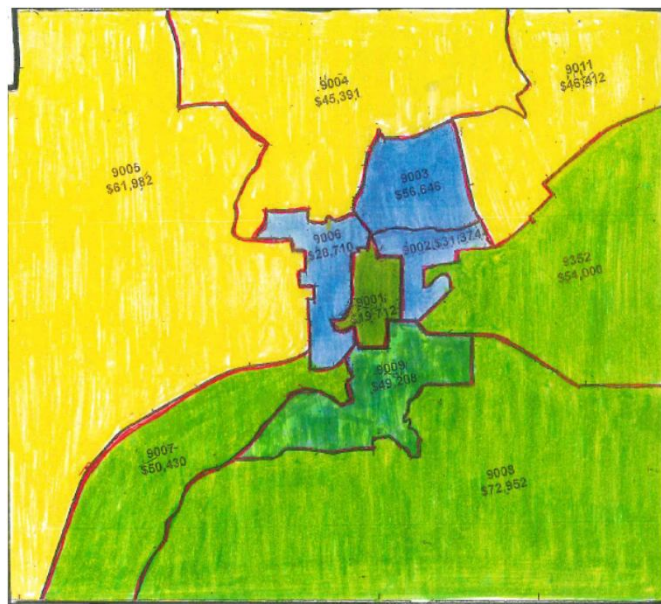
City considers using the following contiguous tracts

- 9001 \$19,712
- 9006 \$28,710
- 9002 **\$31,374**
- 9009 \$49,208
- 9003 \$56,646

$$\$31,374 \times 110\% = \$35,511 < 60\% \text{ HUD AMI}$$

Citywide AMI = \$43,118
HUD 60% AMI = \$46,560.

Example of HD Pricing Area



City border
Census Tracts
HDIP Pricing Area

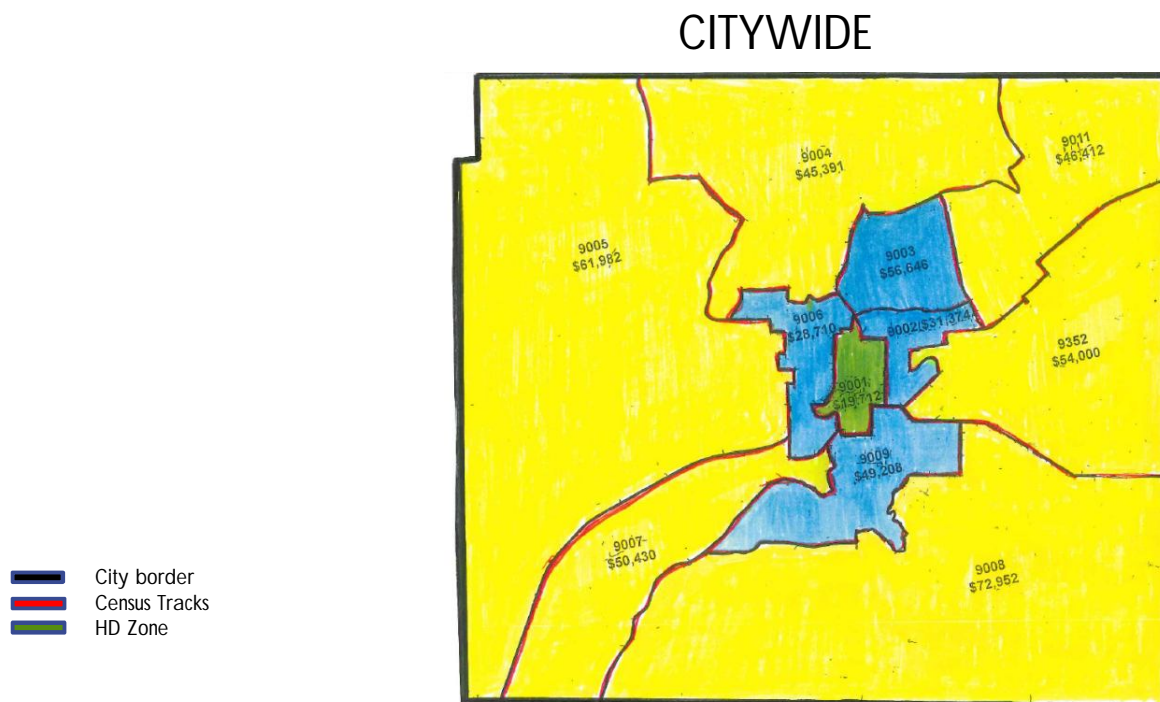
City consider using the following tracks:

9001	\$19,712
9009	\$49,208
9007	\$50,430
9352	\$54,000
9008	\$72,952

$$\$50,430 \times 110\% = \$55,473 > 60\% \text{ HUD AMI}$$

Citywide AMI = \$43,118
HUD 60% AMI = \$46,560.

Example of HD Pricing Area



Citywide AMI \$43,118 X 110% = **\$47,506** > HUD 60% AMI \$46,560.

HD ZONE APPLICATION

- ❑ Location and rationale for boundaries
- ❑ Documentation of need for multi-unit market rate housing
- ❑ Maps depicting existing conditions
- ❑ HD Zone Plan

HD ZONE PLAN

- ❑ Detailed description of construction, reconstruction, rehabilitation, and related activities, public & private, proposed for HD Zone
- ❑ Description of how implementation of HD Zone Plan will meet HDIP goals
- ❑ Maps depicting proposed (re)development activities
- ❑ Comparison of existing to proposed zoning requirements
- ❑ Identification of HDIP Pricing Area and Target Household Income for market rate units
- ❑ Implementation schedule for (re)development activities
- ❑ Compliance to affirmative fair housing obligations
- ❑ Consistency with other local/regional plans and initiatives
- ❑ Duration of HD Zone Plan

DHCD APPROVAL

- Application is complete
- There is a documented need for multi-unit market rate housing in the proposed HD Zone
- The proposed HD Zone is appropriately located to support the objectives of the HD Zone Plan
- Implementation of the proposed HD Zone Plan will meet the goals of HDIP
- The HDIP AMI used by the City to calculate the Target Household Income for pricing market rate housing units in HD Projects is appropriate

HD TAX INCREMENT EXEMPTION

- Following local approval City negotiates and executes HD Tax Increment Exemption Agreements with interested Sponsors
- The amount of the Exemption is determined by applying the exemption percentage to the increment on the property tax
- The increment is calculated based on usable square feet of market rate unit
- HD Tax Increment Exception Agreements approved by DHCD are made part of the HD Zone Plan

HD TAX INCREMENT EXEMPTION

- HD Tax Increment Exemption Agreement authorizes annual exemption from local property tax
- Exemption percentage of 10-100% of incremental value of market rate units
 - ▣ % may vary among HD Projects
 - ▣ % may change from year-to-year for individual HD Projects
 - ▣ Duration of Agreement 5-20 years
 - ▣ Effective as of the 1st fiscal year following DHCD's certification of HD Project and approval of Agreement
 - ▣ DHCD will also approve Agreements for HD Projects not seeking/not awarded HD Tax Credits

HD TAX INCREMENT EXEMPTION

HD Tax Increment Exemption Agreement becomes effective if:

- ❑ It has been executed by the City and the Sponsor
- ❑ DHCD approves the housing development project as a Certified HD Project
- ❑ It has been approved by DHCD
- ❑ Notice of certification is recorded with the appropriate registry of deeds or land court registry

APPLICATION TO DHCD

- Following DHCD approval of HD Zone and HD Zone Plan, Sponsor apply for:
 - DHCD Certification of HD Project
 - DHCD approval of locally executed HD Tax Increment Exemption Agreement
 - DHCD award of HD Tax Credits to Sponsor

OVERVIEW

PROGRAM IMPLEMENTATION

Sponsor

- DHCD approval of Preliminary Certification – Site & Building
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 - ▣ Conditional award of HD Tax Credits
- Construction of HD Project begins
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- DHCD approval of Final Certification of HD Project and QSREs
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PRELIMINARY CERTIFICATION

- Application includes:
 - ▣ Site plans
 - ▣ Photographs of building(s)
 - ▣ Evidence of need for substantial rehabilitation
 - ▣ Narrative description of proposed substantial rehabilitation, including number and % of market rate units
 - ▣ Cost estimates
 - ▣ Evidence of site control
 - ▣ Request by City for DHCD approval of project as HD Project
 - ▣ Vote authorizing City to enter into HD Tax Increment Exemption Agreement
- DHCD approval - proposed building meets standards of a Certified HD Project in present state or upon substantial rehabilitation

CERTIFIED HD PROJECTS

- Only Sponsors of Certified HD Projects can utilize local property tax increment exemption and state tax credit
- Certification for duration of 5-20 years
- 3 distinct stages with separate applications for DHCD approval
 - ▣ Preliminary Certification
 - ▣ Conditional Certification
 - ▣ Final Certification

CONDITIONAL CERTIFICATION

- May be submitted with Application for Preliminary Certification
- Submitted prior to construction
- Application includes:
 - ▣ Construction plans, specifications, cost estimates, and schedule
 - ▣ Commitment from all financing sources
 - ▣ Letter of interest from syndicator/investor, as applicable
 - ▣ Evidence that market rate units will be priced for household incomes of not less than 110% of HDIP AMI, including methodology for setting prices
 - ▣ Documentation demonstrating marketability of market rate units
 - ▣ Marketing strategies and plan, including affirmative fair housing outreach
 - ▣ Executed HD Tax Increment Exemption Agreement
 - ▣ Evidence of local support

MARKET RATE UNITS

- Units priced for households $>110\%$ of HDIP AMI
 - ▣ Calculated for locally identified HDIP Pricing Area
- No ceiling on rents or sales
- No income restrictions for unit occupants
- Must be affirmatively marketed

SUBSTANTIAL REHABILITATION

- Major redevelopment, repair and renovation of existing property
- Limited new construction:
 - ▣ Addition of upper stories
 - ▣ Expansion of footprint by building out
 - ▣ Redevelopment of site after demolition of existing building(s) - if it occurs after preliminary certification
- Prohibits new construction on existing vacant land
- Construction costs per unit of no less than \$30,000

QUALIFIED SUBSTANTIAL REHABILITATION EXPENDITURE (QSRE)

- Total hard and soft costs relating to development of market rate units only
 - Includes demolition costs for interior and roof & wall demolition associated with building up or out
 - Excludes other demolition costs
 - Excludes land acquisition
- Cost Certification by CPA upon project completion
 - if tax credit awarded or if required by city
- Approved by DHCD and used to determine amount of HD Tax Credit award

CONDITIONAL CERTIFICATION

DHCD approval:

- Proposed HD Project meets definition of Substantial Rehabilitation and if completed as proposed meets standards of a Certified HD Project and QSREs
- Approval of HD Tax Increment Exemption Agreement and award HD-Tax Credits, subject to project completion and Final Certification

HD TAX CREDITS

- DHCD approval of amount and credit period
- Award of up to 10% of QSREs of market rate units
- Claimed in taxable year DHCD notifies DOR of certification of HD Project
- May be carried forward for 5 years
- Transferable in whole or in part
- Total annual program cap of \$5M
 - ▣ Inclusive of new awards & carry forwards of credits from prior years
 - ▣ Per project cap on award of \$1M

HD TAX CREDITS

Award criteria include:

- ❑ Extent of need for housing development & diversity of housing supply
- ❑ Impact of HD Project on HD Zone
- ❑ Number and % of market rate units
- ❑ Integration with other (re)development in HD Zone
- ❑ Strength of development team and prior performance
- ❑ Consistency with Sustainable Development Principles
- ❑ Effect of award on geographic balance in allocation of HD Tax Credits

FINAL CERTIFICATION

- Submitted when project is complete and 80% of the market rate units have been leased or sold
- Application includes:
 - ▣ Cost Certification by CPA, if applicable
 - ▣ Photographs of completed work - exterior & interior
 - ▣ Certificates of occupancy for entire project
 - ▣ Pricing of market rate units
 - ▣ Evidence of compliance with Affirmative Fair Housing Marketing Plan approved by DHCD

FINAL CERTIFICATION

DHCD:

- ❑ Designates HD Project as Certified HD Project
- ❑ States amount of QSREs for calculating HD Tax Credit award
- ❑ States duration of the Certification
- ❑ Approves HD Tax Increment Exemption Agreement
- ❑ Approves HD Tax Credit award
- ❑ Issues Eligibility Statement for submission by taxpayer to DOR
- ❑ Notifies DOR within 10 days following Certification

HD TAX CREDIT EXAMPLE

Approach similar to Historic Tax Credits:

- For HD Project with 50 market rate units
 - \$200,000 per unit of qualified rehabilitation expenditures = \$10M total
 - Value of tax credit is 10% of qualified rehabilitation expenditures = \$1M
- If sold at \$.84 equity would = \$840,000

CERTIFIED HD PROJECT

Completed HD Project approved by DHCD, including:

- Approval of HD Tax Increment Exemption Agreement
- Approval of QSREs
- Award of HD Tax Credits

APPROVAL PROCESS

- ❑ Local approval of HD Zone and HD Zone Plan
- ❑ DHCD approval of HD Zone and HD Zone Plan
- ❑ DHCD Certification of HD Project
- ❑ DHCD approval of locally executed HD Tax Increment Exemption Agreement
- ❑ DHCD award of HD Tax Credits to Sponsor

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